

Case 1:14-cv-04318-LTS-HBP Document 81 Filed 01/19/16 Page 1 of 2



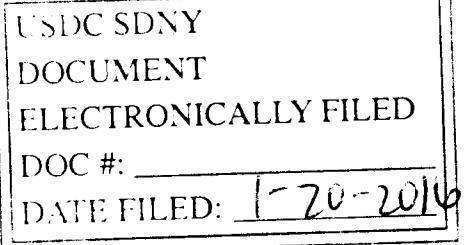
Zwerling, Schachter & Zwerling, LLP

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January 19, 2016



**BY ECF**

Honorable Laura Taylor Swain  
United States District Judge  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

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New York, NY 10010  
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**LAW OFFICES OF ZWERLING, SCHACHTER & ZWERLING, LLP**

New York  
Long Island  
Seattle

Re: *In re Davis New York Venture Fund Fee Litig.,*  
No. 14-cv-4318 (LTS) (HBP)

Dear Judge Swain:

This firm is lead counsel for Plaintiffs in the above matter. We submit this letter, jointly on behalf of all parties, to request a revision to one expert discovery deadline in Pre-Trial Scheduling Order No. 1 (Docket #78) entered at the pre-trial conference on December 17, 2015 ("PTSO"). We have conferred with counsel to Defendants, and the parties agree that the requested revision is needed to give effect to the schedule proposed by the parties and approved by the Court at the pre-trial conference.

As Your Honor may recall, pursuant to the Initial Conference Report, filed on December 10, 2015 (Docket #76), the Court granted the parties' proposal (Schedule (Topic 8) C.) regarding the conduct of expert discovery and its completion 195 days (*i.e.* 6½ months) after the close of fact discovery.

To that end, Paragraph 2.c. of the PTSO requires that, "All non-expert witness discovery in this matter must be completed by **June 18, 2017**;" Paragraph 2.e. of the PTSO requires that, "All expert witness discovery must be completed by **January 12, 2018**" (emphases in original). When read together, these two provisions allow the parties approximately 195 days or 6½ months to complete expert discovery.

However, the second sentence of paragraph 2.d. in the PTSO states that "Plaintiffs must serve their primary expert reports no later than 195 days **before the date set forth in paragraph 2.c....**" (emphasis in original). Because paragraph 2.c. is

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the fact discovery deadline, paragraph 2.d. would require Plaintiffs to serve their primary expert reports 6½ months **prior** to the close of fact discovery (*i.e.* December 5, 2016), rather than 60 days **after** the close of fact discovery (as set forth in the Initial Conference Report (Schedule (Topic 8) C.). As currently required, the provision would also extend the expert discovery period from the intended total of 195 days to over one year (*i.e.* from December 5, 2016 to January 12, 2018).

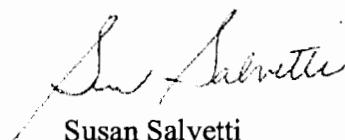
Accordingly, the parties propose that the second sentence of paragraph 2.d. be revised as follows:

“Plaintiffs must serve their primary expert reports no later than 147 days before the date set forth in paragraph 2.e. below.”

(Proposed revisions are highlighted)

The parties respectfully submit that this revision will implement both the Court’s decision at the Pre-trial Conference as well as the parties’ Initial Conference Report by allowing commencement of expert discovery after fact discovery is completed, and by allowing Plaintiffs 60 days from the completion of fact discovery to serve their primary expert reports. Because the remaining provisions of paragraph 2.d. are calculated from the time of service of Plaintiffs’ primary expert reports, no other revision to paragraph 2.d. is necessary.

Respectfully submitted,

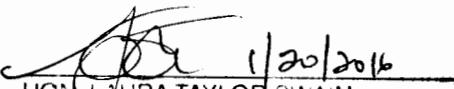


Susan Salvetti

SS/jm

cc: All counsel of record by ECF

The proposed revision is  
approved and is hereby  
deemed incorporated into  
the scheduling order.  
DE #81 resolved.  
**SO ORDERED:**



1/20/2016  
HON. LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE